REMARKS

This amendment and response has been prepared according to the USPTO's revised amendment format.

Priority

Applicants have filed concurrently herewith a Request for Corrected Filing Receipt.

Applicants first submitted such a request on April 30, 2002. However, applicants' first request was denied in a response dated June 4, 2002 because applicants did not supply the relationship of one of the cases in the chain of priority.

Accordingly, applicants have amended paragraph [0001] of the above-captioned published application. The amendment is believed to comply with the USPTO's Notice for "Claiming the Benefit of a Prior-Filed Application under 35 U.S.C. §§ 119(e), 120, 121 and 365(c)."

For the sake of clarity, the above-captioned application is a continuation-in-part of U.S. Application Serial No. 09/728,540, filed November 28, 2000; which claims priority from both U.S. Provisional Application Serial No. 60/207,558 and is a continuation-in-part of co-pending U.S. Application Serial No. 09/073,363, filed May 6, 1998; which claims priority from U.S. Provisional Application Serial Nos. 60/044,293, 60/076,947, and 60/072,212.

Restriction

The Examiner has required restriction under 35 U.S.C. §121 to one of seven inventions, designated I-VII. In addition, the Examiner stated that applicants must further elect a single sequence if any one of Groups I-III is elected.

Applicants elect the claims of Group I, claims 1 and 8, drawn to an isolated polypeptide. In order to comply with the Examiner's further requirement for restriction, applicants further elect SEQ ID NO: 12. Applicants expressly reserve the right to file divisional applications to the presently non-elected subject matter.

However, applicants respectfully traverse the above requirement for restriction and request reconsideration of the groupings of the claims. According to M.P.E.P. § 803, restriction is only proper if: (a) the inventions are independent and distinct; and (b) there must be a serious burden on the examiner if restriction is not required. However, if the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits.

Applicants submit that groups I-III should not be regarded as separate inventions. Applicants have elected the claims of Group I, directed to a polypeptide, and have further elected SEQ ID NO: 12 within Group I. The claims of Group II, directed to nucleic acids, and Group III, directed to binding compositions, depend from claim 1. Therefore, applicants believe that a search of the claims of Groups II and III can be made without a serious burden once the claims of Group I are searched. It is applicants' position that if a polypeptide is found to be patentable, then a nucleic acid encoding the polypeptide is also patentable. According to M.P.E.P. § 803.04, nucleotide sequences encoding the same protein are not considered to be independent and distinct inventions and will continue to be examined together. In addition, applicants believe that antibodies that specifically bind the polypeptide are also patentable. Accordingly, applicants respectfully request reconsideration and withdrawal of the restriction requirement with respect to Groups I-III.

CONCLUSION

If the undersigned can be of assistance to the Examiner in addressing issues to advance the application to allowance, please contact the undersigned at the number set forth below.

Respectfully submitted,

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